

REMARKS

Applicants respectfully request favorable reconsideration of this application, as amended. Claims 1-16 are currently pending. Claims 3 and 11 have been canceled by this amendment have been previously canceled. Claims 8 and 16 have been amended. Applicants believe that all of the objections and/or rejections from the Office Action dated July 23, 2007 are overcome by the amendments and arguments and respectfully request that a Notice of Allowance to that effect be issued.

Applicants would like to thank the Examiner for the indication of allowable subject matter in Claims 8 and 16, if rewritten in independent form to include all of the elements of the base claim and any intervening claims.

Claims 1-3 and 9-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Powerball. This rejection is respectfully traversed.

Claims 1 and 9 recite, *inter alia*, a mechanical ball draw machine configured to draw one ball at a time from a set of balls... consisting of a plurality of subsets of one or more balls, at least some of the subsets having different numbers of balls and each ball being identifiable as belonging to a subset, whereby the relative number of balls in the subsets determine the likelihood of a ball from a subset being drawn thus allowing fixed odds betting to be carried out on a result determined based on the basis of subset identity.

As the Examiner states, Powerball discloses using a first machine to draw 5 white balls (from 49 uniquely numbered white balls), and a second machine to draw 1 red ball (from 42 uniquely numbered red balls). The Examiner also admits that the red balls and the white balls belong to two different subsets. Because a fixed number of red and white balls are drawn from separate respective machines in Powerball, the relative numbers of red and white balls do not determine the likelihood of drawing a ball from a particular subset (i.e. color), as recited in Claims 1 and 9. The payoff for each winning outcome, as described in the table on page 2 of Powerball, is based on the number of matches between

the color/number combinations selected by a player compared with the numbers on the red/white backs that are drawn. The payoff described in Powerball is therefore not based on the number of red or white balls that are ultimately drawn. Therefore, Powerball does not disclose or suggest a mechanical ball draw machine configured to draw one ball at a time from a set of balls... consisting of a plurality of subsets of one or more balls, at least some of the subsets having different numbers of balls and each ball being identifiable as belonging to a subset, whereby the relative number of balls in the subsets determine the likelihood of a ball from a subset being drawn thus allowing fixed odds betting to be carried out on a result determined based on the basis of subset identity, as recited in Claims 1 and 9. Accordingly, the § 102(b) rejection of independent Claims 1 and 9 is believed to be overcome, and the Examiner is respectfully requested to formally withdraw the §102(b) rejection of Claims 1-3 and 9-11.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powerball and depend, respectively, from independent Claims 1 and 9. Applicant respectfully traverses the rejection for at least those reasons given above for Claims 1 and 9. The Examiner's assertion that it is well known to provide a backup to a primary part or device, fails to make up for the deficiency in Powerball. Therefore, Powerball does not teach or suggest all of the features recited in Claims 7 and 15. Accordingly, the Examiner is respectfully requested to formally withdraw the §103(a) rejection of Claims 7 and 15.

Claims 1-6 and 9-14 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,938,200 to Markowicz ("Markowicz") or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Markowicz in view of U.S. Patent No. 3,560,127 to Imperato ("Imperato"). Applicants respectfully traverse.

Markowicz describes a game of chance involving several game participants that starts with a plurality of equal subsets of drawing elements corresponding to each game participant. This is in contrast to the at least some of the subsets having different

numbers of balls, as recited in Claims 1 and 9. A selection device randomly selects drawing elements from all of the unselected drawing elements for the game participants. When a drawing element for a participant is selected, the selected drawing element cannot be selected again and the game piece for that participant advances by one space (see column 4 lines 25-30). The player for the game piece that first reaches the termination point is the winner. As described at column 5 lines 50-56, players can place wagers at any time during play of the game, and the odds of a game participant reaching the termination point in a certain order and in a certain number of draws changes with each draw from the collection of drawing elements. The odds are updated after each drawing element is drawn (see column 5 lines 60-64 and column 6 lines 30-32).

Imperato describes a game apparatus simulating a horse race (see Figure 1) using a set of dice with a fixed distribution of different numbers. As described at column 3 lines 1-11, each game piece corresponds to a number, and advances a number of spaces on the game board by the number of cubes showing the number corresponding to that game piece. However, unlike in the present application, the fixed distribution of numbers on the dice does not change as the game is played.

Therefore, Markowicz or Imperato do not or suggest, either alone or in combination, providing a mechanical ball draw machine that draws one ball at a time from a set of balls consisting of a plurality of subsets of one or more balls, at least some of the subsets have different numbers of balls, whereby the relative number of balls in the subsets determine the likelihood of drawing a ball from a subset to allow fixed odds betting on a result determined bases on subset identity, as recited in Claims 1 and 9.

Accordingly, the Examiner is respectfully requested to formally withdraw the §§102(b) and 103(a) rejection of Claims 1-6 and 9-14.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markowicz alone, or in combination with Imperato and depend, respectively, from

independent Claims 1 and 9. Applicant respectfully traverses the rejection for at least those reasons given above for Claims 1 and 9. Therefore, Markowicz alone, or in combination with Imperato, fails to teach or suggest all of the features recited in Claims 1 and 9. Accordingly, the Examiner is respectfully requested to formally withdraw the §103(a) rejection of Claims 7 and 15.

Applicants believe all currently pending claims to be allowable and respectfully requests the Examiner formally withdraw the rejections and issue a Notice of Allowance to that effect for all of the currently pending claims.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

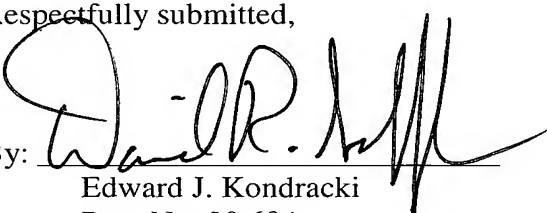
The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4132-8861US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

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